



How to Properly Pre-Screen a Prospective Tenant

by Zachary Lawrence JD

Pop icon Gloria Estefan recorded a song called "Seal Our Fate". The lyrics remind us that we "Seal our fate with the choices we make".

As a landlord and property manager, I can tell you that selecting a qualified (or unqualified) tenant is indeed a choice that has far reaching ramifications.

The tenant that you choose for occupancy, especially in a rent controlled jurisdiction, can become a reliable source of income or an economic mistake with long term consequences. Which leads us to the essence of this article. How do we properly screen,

and pre screen, a prospective tenant?

I discussed this issue on the Landlord -Tenant Radio podcast (March 23, 2016)

The landlord should "pre screen" all applicants, even before they have provided you with an application. When a prospective tenant calls and makes an inquiry, all landlords should ask the following questions.

with eviction attorney Dennis P. Block. (Podcast in its entirety can be heard at www.parkside123.com).

www.parkside123.com).

"Selecting a tenant is a monumental choice" said Block. "If you have a tenant that fails to pay the rent, and must therefore evict, the landlord faces what may be one year's loss of income. Why is that? Some landlords wait two to three months before they commence an eviction. Why? The landlord is hoping the tenant will pay. When it becomes clear that they won't, it takes another six to eight weeks for the tenant to be evicted. Then the landlord has to make repairs to the unit. As many evicted tenants often 'trash' the premises, the

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repairs may cost several thousand dollars.

Then, the unit has to be advertised and it may take another few months to find a new tenant.

Zac: Most landlords I know screen their applicants by having them fill out a credit application and then submit it to a credit agency. They then use the report provided by the agency as the basis of their decision. Is there more to it than that?

Block: Much more. The landlord should "pre screen" all applicants, even before they have provided you with an application.

Zac: Please explain.

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Block: When a prospective tenant calls and makes an inquiry, all landlords should ask the following questions:

Number of Prospective Tenants

How many people are moving in? If the person says that ten people are moving in, you can immediately say that this unit is (for example) a two bedroom and we won't allow more than a certain number of people to occupy this unit.

Zac: What are the legal criteria for determining the number of occupants allowed per unit?

Block: There really are no

limitations, per se, that are enforced. However, **Fair Housing has offered a formula which has been adopted, which is "two per bedroom, plus one"**. This means that if you are renting a one bedroom apartment, you may have three people living in that unit. So even before you accept an application, you may turn down the applicant because he has exceeded the number of allowable occupants for your unit.

Security Deposits

Block: You may also "pre-screen" an applicant by demanding a security deposit which equals the amount of

two month's rent for an unfurnished unit, plus the first month's rent, and all in advance of occupancy. If they do not have these funds, the landlord may reject the applicant on that basis, and prior to accepting a credit application.

Zac: May a Landlord legally include these conditions for occupancy in his ads?

Block: It is 100% proper to do so.

Tenant Income

Block: Landlords may also ask the applicant if he earns at least three times the monthly rent. (This would also apply to the combined income of

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roommates applying for the same unit. For example, the total amount of both applicants' income would have to equal at least three times the monthly rent). If they do not meet these criteria, the landlord may reject this applicant.

References

Block: I will also ask the applicant for personal references.

Zac: Who are we trying to kid here? The applicant will undoubtedly provide you with references like their Uncle Joe or Mom and Dad, who will give them a stellar recommendation.

Block: You'd be surprised

at what a family member or 'friend' has told me about an applicant. Let's leave it at that. The point is, make the call and ask questions.

Zac: Wouldn't you give more weight to the applicant's work references than that of his "Aunt Millie"?

Block: No, because it's not just about getting the rent, Zac. It's about how is this person going to take care of the premises? Is he taking care of his current unit? I'm not going to get this information from his employer, but I will get it from "Aunt Millie".

And if the applicant cannot provide me with personal and/or business references, then I

have the legal right to reject his application.

Zac: So if "Aunt Millie" says that he's a slob, you have a legal right to reject this applicant, before you review or accept any application. Is this correct?

Block: Yes, sir. Let me make this very clear to you. I'm not talking about illegal discrimination. A landlord may not reject an applicant based on marriage, race religion, age, sex, or handicap.

Right to Privacy

Zac: What if the tenant tells you that he is not comfortable giving you his personal references on the phone,

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or any other information, without it first being included on the formal application to rent?

Block: That's fine. All I'm doing is informing the tenant that this is the information that will be required, and these are the dollars that will be required, in order to be considered for this unit. The tenant may then elect to proceed and submit his application or simply withdraw, saving both parties' time and money.

- I'll also want to know the names of his current and past landlords and employers.
- I also want to know how long he has been with his current employer and prior employers. If he's had five jobs in the last five years, that could mean that he has trouble holding down a job and therefore may have trouble paying his rent.
- I want the applicant to know that I want to know all of this information and prior to submitting his application. This is called "pre-screening".
- It is essential that Landlords use the same pre-screening criteria for all prospective applicants.

Zac: Would you recommend that landlords include, in their ads, the pre-screening criteria that you are talking

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about here?

Block: If you have the ad money for that, then go ahead. If not, it is recommended by Fair Housing that landlords have printed on the back of their applications all the criteria required for all applicants.

Credit Scores

Zac: Please talk about an applicant's past eviction and credit score.

Block: Do not rent to anyone that has been subject to an eviction. It doesn't matter why they were evicted. Do not rent to this person.

The problem now is that a tenant's eviction may be ordered by the judge to be "sealed", which will not appear on the applicant's credit report. So find an applicant with a high credit score, as he probably will not be a person that has been previously evicted.

My recommendation is that any applicant under consideration have a credit score of at least 650. Top credit scores are 700 and up. Good credit scores are anywhere from 600-700.

Zac: May a landlord include in his ads that applicants must have a credit score of at least 600-700.

Block: Yes. My personal minimum requirement is 650. 650 is considered a "B" credit rating. This alphabetic rating system can be found in the "ABC's of Tenant Credit Scores" written by the Apartment Owners Association of California (AOA). For example, , Someone who has a 700 to perfect credit score, must, according to this system, have a credit history of at least 36 months. Why? Because you may get an applicant with a 700 credit score, but hasn't been in this country or employed here, for any length of time.

My advice to landlords also includes:

1. No single account should be late, within the last 12 months, longer than 30 days.
2. No collection accounts for the last 24 months.

3. No bankruptcies for the last 48 months.
4. No litigation or pending litigation against the applicant, over the last 48 months.

It's a war zone out there, Zac. And if we don't use these tools of due diligence, it could mean the loss of one year's worth of rental income.

Zac: Do you offer tenants (about to be evicted) the option to vacate, without contest, in exchange for having their eviction "sealed", which means that the eviction will not appear on the tenants credit report?

Block: That is indeed a tool used by both Plaintiffs and Defendants attorneys. In the heat of battle, this tool may very well save all parties the expense and stress of a jury trial.

Comments: Before accepting a credit application or application fees, make sure that all prospective applicants know, in advance, your requirements for occupancy. If the applicant tells you that he/she cannot meet these requirements, and in advance of submitting an application, the landlord may turn down this applicant, and without having to first accept and process a formal credit application.

(AOA has a sample copy of the required "Criteria List" available to members for free at www.aoausa.com. It may be found in the form section under the alphabetical list.)

I asked Dennis Block to disclose his personal credit rating. He wasn't specific, but claims that it has four digits.

ADA

Zachary Lawrence is the owner of Parkside Property Management and Affordable Landlord Consulting - www.Parkside123.com. He is the author of "How to Beat Rent Control" and is the co-host of Landlord-Tenant Radio" with Attorney Dennis Block.

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